IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Crl.MC.No. 2231 of 2007()

PETITIONER: ACCUSED 5 & 7:

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1. MRS. MEETHU KUMAR, W/O. DILIP KUMAR,
   MENACHERRY HOUSE, KONTHURUTHY ROAD, THEVARA.

2. MRS. ROSY FRANCIS, W/O. FRANCIS,
   MENACHERRY HOUSE, KONTHURUTHY ROAD, THEVARA.

BY ADV. SRI.SUJITH MATHEW JOSE

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA (FOR THE DETECTIVE INSPECTOR,
CBCID SPECIAL SQUAD, THIRUVANANTHAPURAM, IN CRIME
NO.132/CR/1989-LP.NO.314/2005 OF ACJM,ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Cr.M.C.No. 2231 of 2007

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Dated this the 12th day of July, 2007

ORDER

The petitioners face indictment in a prosecution under Section 406 and 420 IPC. Their late father was the defacto complainant. Private complaint filed by him was referred to the Police. FIR has been registered. Cognizance has been taken on the basis of final report submitted by the Police. The case against the co-accused proceeded. The petitioners did not appear. Thereupon the case against the petitioners was split up. Consequent to non appearance, warrants of arrest have been issued against the petitioners by the learned Magistrate.

2. According to the petitioners, they are absolutely innocent. Their non-appearance was not intentional and was on account of reasons beyond their control, it is submitted. They are willing to surrender before the learned Magistrate and co-operate for the early disposal of the case. But they apprehend that their applications for bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. In these circumstances, they pray that appropriate directions may be issued under Section 482 Cr.P.C. The petitioners have a further submission to make. According to them the defacto complainant expired and the legal heirs of the deceased are competent and willing to compound the offence. If and

when such an application is filed, the learned Magistrate may be directed to dispose of such application also on merits. I have no reason to assume that the learned Magistrate would not consider such applications on merits, in accordance with law and expeditiously. The learned Magistrate must consider the same on merits and pass appropriate orders

3. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioners surrender before the learned Magistrate and applies for bail or for composition after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- preferably on the date of surrender itself.

(R.BASANT, JUDGE)

sj